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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 21, 2019
86th Legislature, Number 70
The House convenes at 10 a.m.
Part Five

The bills and joint resolutions analyzed or digested in Part Five of today's *Daily Floor Report* are listed on the following page.

Today is the last day for the House to consider Senate bills and joint resolutions on second reading, other than local and consent, on a daily or supplemental calendar.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 70

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 21, 2019

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Part 5

SUBJECT: Expanding eligible participants for the Texas ABLE program

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 8 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Lambert, Stephenson, Wu

1 nay — Gutierrez

2 absent — Leach, Longoria

SENATE VOTE: On final passage, April 23 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities)

Against — None

On — (*Registered, but did not testify*: Linda Fernandez, Comptroller of Public Accounts)

BACKGROUND: Education Code ch. 54, subch. J governs the Texas Achieving a Better Life Experience (ABLE) program, which encourages and assists individuals and families in saving funds for the purpose of supporting individuals with disabilities to maintain their health, independence, and quality of life.

Sec. 54.910(b) provides for cases in which the designated beneficiary of an ABLE savings account is a minor by establishing that in those cases a parent, custodian, or other fiduciary appointed for the purpose of managing the minor's financial affairs may participate in the ABLE program on the beneficiary's behalf.

Interested observers have expressed concern that this statute could be interpreted to imply that a legal guardian or agent under a power of attorney would be excluded from opening a Texas ABLE account for an

adult beneficiary. They also note that the statute does not explicitly allow a court-appointed guardian to establish a Texas ABLE account for an eligible ward.

DIGEST:

SB 1184 would expand eligibility for the Texas ABLE program by authorizing the parent, legal guardian, or other fiduciary of any designated beneficiary who was not able or chose not to exercise signature authority over a program savings account to participate in the program on behalf of the beneficiary.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Creating the Texas Veterans County Service Officer Task Force

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Flynn, Tinderholt, Ashby, Hinojosa, Lopez, Ramos, Romero

0 nays

2 absent — Lozano, Reynolds

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3412:*
For — Jim Brennan, Texas Coalition of Veterans Organizations; Steven Price, The Voices of Our Veterans, Texas Democratic Veterans; (*Registered, but did not testify:* John McKinny, American Legion)

Against — None

On — (*Registered, but did not testify:* Cruz Montemayor, Texas Veterans Commission; Ender Reed, Harris County Veterans Services Office)

BACKGROUND: Interested parties note that many counties find it difficult to provide Veteran County Service Officers (VCSOs), due a lack of funding for this state requirement.

DIGEST: SB 2104 would create the Texas Veterans County Service Officer Task Force to study the impact and efficacy of Veteran County Service Officers (VCSOs) in Texas.

Members. The task force would be composed of:

- the House Defense and Veterans' Affairs Committee chair;
- the Senate Veteran Affairs and Border Security Committee chair;
- a representative of the Texas Veterans Commission (TVC);
- the Veterans County Service Officer Advisory Committee chair;
- a representative of the Texas Coalition of Veterans Organizations;

- two officers selected by the chair of the House committee, representing counties with a population of less than 200,000 people and more than 200,000 people, respectively; and
- two officers selected by the chair of the Senate committee, representing counties with a population of less than 200,000 people and more than 200,000 people, respectively.

The chairs of the House Committee on Defense and Veterans' Affairs and the Senate Committee on Veteran Affairs and Border Security would serve as co-chairs of the task force.

Duties. The task force would have to:

- examine the role and duties of VCSOs in each county;
- identify the regions of Texas in need of VCSOs; and
- determine types and levels of support needed from the state for VCSOs to appropriately advocate for veterans.

Each recommendation made by the task force would have to be approved by a majority vote of its members.

Report. TVC would have to submit a report based on the task force's recommendations to the Senate Committee on Veteran Affairs and Border Security and the House Committee on Defense and Veterans' Affairs by December 1, 2020. The report would have to be approved by a majority vote of the task force's members.

Effective date. The bill would take effect September 1, 2019.

SUBJECT: Adding requirements for home-rule municipalities proposing annexation

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Craddick, Muñoz, C. Bell, Biedermann, Leman, Minjarez

1 nay — Thierry

2 absent — Canales, Stickland

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Shelby Sterling, Texas Public Policy Foundation; (*Registered, but did not testify*: Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Ned Muñoz, Texas Association of Builders; Edward Sterling, Texas Press Association)

Against — Nicole Smothers, City of Houston; (*Registered, but did not testify*: Tammy Embrey, City of Corpus Christi; TJ Patterson, City of Fort Worth; Monty Wynn, Texas Municipal League)

BACKGROUND: Local Government Code sec. 41.001 requires each municipality to prepare a map that shows the boundaries of its extraterritorial jurisdiction and keep a copy of the map in the office of the secretary or clerk and the municipal engineer, if the municipality has one.

Sec. 43.052 requires a municipality that must adopt an annexation plan to, within 90 days after the plan was adopted or amended, give written notice to each property owner in the affected area, each public or private entity providing services in an area proposed for annexation, and each railroad company operating a right-of-way in the area proposed for annexation.

Under sec. 43.0561, before a municipality may institute annexation proceedings for areas under a municipal annexation plan, the governing body must conduct two public hearings. The municipality must post notice of the hearings on its website, if it has one, and publish notice in a newspaper of general circulation in the municipality and area proposed to

be annexed.

Under sec. 43.063, before a municipality may institute annexation proceedings for an area exempted from a municipal annexation plan, the governing body must conduct two public hearings. The municipality must post notice of those hearings on its website and public notice in a newspaper of general circulation in the municipality and the area.

DIGEST:

SB 1303 would add requirements for certain home-rule municipalities proposing annexation in areas that would be included in their extraterritorial jurisdiction (ETJ), including requirements that municipalities provide notice to property owners and in a newspaper of general circulation in their areas. A home-rule municipality also would have to create and make public a digital map of its ETJ or, upon a proposed annexation, a digital map of its expanded ETJ.

Notice to property owners. The bill would require a home-rule municipality to give written notice to each property owner in any area that would be newly included in the municipality's ETJ as a result of a proposed annexation. The municipality would have to give such notice within 90 days of adopting or amending an annexation plan. The notice would have to include a description of the area included in the municipality's annexation plan, a statement that the completed annexation would expand the ETJ to include all or part of the owner's property, a statement of the purpose of ETJ designation as provided in statute, and a description of municipal ordinances that would be applicable in the area.

This provision would apply only to a prospective expansion of ETJ resulting from an area proposed for annexation that was included in a municipal annexation plan on or after September 1, 2019.

Notice in newspaper. A home-rule municipality proposing to annex an area, whether the area was under a municipal annexation plan or exempted from such a plan, would have to publish the required notice of public hearings in a newspaper in general circulation in any area that would be newly included in the municipality's ETJ as a result of the annexation. The notice would have to include a statement that the completed annexation of the area would expand the municipality's ETJ, a description of the area, a

statement of the purpose of ETJ designation as provided in statute, and a description of the municipal ordinances that would be applicable in the area.

This provision would apply only to a hearing notice published on or after September 1, 2019.

Map of boundaries. SB 1303 would specify that a municipality would have to maintain a copy of the map showing the boundaries of the municipality's ETJ in a location that was easily accessible to the public. The municipality would be required to maintain the map on a website, if it had one, and to make a copy of the map available without charge.

In addition, a home-rule municipality would have to create and make public a digital map of its ETJ. The bill would require a digital map to be made available without charge and in a format widely used by common geographic information system software. A home-rule municipality that did not have that software instead would have to make the digital map available in any other widely used electronic format. The digital map also would have to be included on the municipality's website, if it had one.

Each home-rule municipality would have to make digital maps publicly available by January 1, 2020.

The bill also would require a home-rule municipality, within 90 days of adopting or amending a municipal annexation plan or before instituting annexation proceedings for an area exempted from such a plan, to create and make public a digital map that identified the area proposed for annexation and any area that would be newly included in the municipality's ETJ.

This provision would apply only to a proposed annexation that was included in a municipal annexation plan, or for which the first hearing notice was published, on or after September 1, 2019.

The bill would take effect September 1, 2019.

SUPPORTERS

SB 1303 would protect the rights of property owners in an area that, upon

SAY:

successful annexation by a home-rule municipality, would be included in the municipality's extraterritorial jurisdiction (ETJ) by requiring prior notice to be given to those property owners.

Current law requires a municipality to inform property owners who would be included within its boundaries upon annexation, but not those who would be included in the municipality's ETJ. The bill would better inform those property owners by requiring municipalities to give notice to property owners and in a newspaper of general circulation in any area that would be added to the ETJ by the proposed annexation. A description of the municipal ordinances that would be applicable in the ETJ would also have to be provided in notices. Many property owners purposefully live outside municipalities' ETJ and should not have to comply with those ordinances without prior notice and an opportunity to express their concerns about annexation.

SB 1303 also would require municipalities to create, maintain, and make public free of charge a digital map showing the municipalities' boundaries and ETJ. If the municipality had a website, the digital map would have to be posted there. This requirement, along with the expanded notice requirements, are necessary to keep all property owners informed when a municipality is considering expanding its boundaries. Some municipalities already maintain such digital maps, and the additional mailing requirements would not be too costly or an undue burden on municipalities.

OPPONENTS SAY:

SB 1303 would be unnecessary and costly to home-rule municipalities. Current law already provides for the adequate notice of a proposed annexation for property owners that would be included in the annexed area. Further, the bill's requirements to maintain a digital map and send additional notice to property owners and newspapers would be costly and burdensome to execute.

SUBJECT: Funding eligibility for school district and charter school partnerships

COMMITTEE: Public Education — committee substitute recommended

VOTE: 12 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, K. King, Meyer, Sanford, Talarico, VanDeaver

1 nay — M. González

0 absent

SENATE VOTE: On final passage, May 1 — 29-2 (Menendez, Miles)

WITNESSES: *On House companion bill, HB 3861:*
For — Mark DiBella, YES Prep Public Schools; Mark Larson, KIPP Texas Public Schools; Scott Muri, Spring Branch ISD; (*Registered, but did not testify*: Anna Amboree, Aristoi Classical Academy; John Armbrust, Austin Achieve; Pablo Barrera, TCSA; Traci Berry, Goodwill Central Texas; Dee Carney, Texas School Alliance; Eddie Conger, International Leadership of Texas Public Charter Schools; Mark Cronenwett, Great Hearts Texas; LaTonya Goffney, Aldine ISD; Jennifer Goodman, Odyssey Academy and Texas Charter School Association; Barry Haenisch, Texas Association of Community Schools; Ginny Janak, CLEAR Public Charter School; Bibi Yasmin Katsev, District Charter Alliance; Hannah LaPorte, IDEA Public Schools; Mackee Mason, Austin Achieve Public Schools; Casey McCreary, Texas Association of School Administrators; David Molina and Kathleen Zimmerman, NYOS Charter School; Billy Rudolph, ResponsiveEd; Thomas Sage, Texas Charter School Association; Staci Weaver, Preparatory Charter Academy; Brent Wilson, Life School; Justin Yancy, Texas Business Leadership Council; and 13 individuals)

Against — (*Registered, but did not testify*: Lisa Dawn-Fisher, Texas State Teachers Association)

On — (*Registered, but did not testify*: Chris Jones, Eric Marin, Heather Mauze, Mike Meyer, and Melody Parrish, Texas Education Agency)

BACKGROUND: Education Code sec. 42.2511 provides additional funding for a school district and charter school that enter into a contract to operate a district campus that is subject to intervention under the public school accountability system. Interested parties note that certain other districts that jointly operate a campus or campus program with a charter school also should be entitled to additional funding.

DIGEST: CSSB 2117 would allow a school district and a charter school to apply to the commissioner of education for approval to jointly operate a campus or campus program. During each school year, the commissioner could approve up to three contracts for a district and charter school to jointly operate a campus or campus program and to receive funding as provided by the bill.

Such a district would qualify to receive additional funds for each student or the portion of each student's school day that was under the direction of the charter school if both the district campus and charter school had received an accountability rating of C or higher.

The commissioner could adopt rules and collect data to determine the portion of funding to which a district was entitled. A district contract with a charter school to jointly operate a campus or campus program during the 2017-2018 school year would be considered to be a contract approved by the commissioner and eligible to receive funding.

The bill would apply beginning with the 2019-2020 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of $5.8 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Allowing electronic consent for newborn and infant screening tests

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — S. Thompson, Wray, Allison, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Coleman

SENATE VOTE: On final passage, May 7 — 30-1 (Creighton)

WITNESSES: No public hearing

BACKGROUND: Health and Safety Code sec. 33.0111 requires the Department of State Health Services (DSHS) to provide disclosure statements on screening tests for certain heritable diseases to allow parents, guardians, and managing conservators of newborns to consent to screenings and the sharing of information. Sec. 47.007 requires DSHS to provide similar disclosure forms to parents and obtain consent for newborn hearing loss screenings and information sharing.

DIGEST: SB 1404 would require the Department of State Health Services (DSHS) to create a process to permit the parent, managing conservator, or guardian of a newborn child to provide consent to and share information from screenings for certain heritable diseases and hearing loss through electronic means, including through audio or video recording. DSHS would have to determine the manner of storing electronic consent records and ensure the newborn's attending physician had access to those records.

Birthing facilities or other persons required to obtain consent would not be required to use the electronic process. DSHS could provide disclosure statements in various formats and languages to ensure clear communication of information on screening tests.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1404 would create a standardized process by which parents of newborns could get better, more complete information regarding newborn screenings and the value of sharing screening data. This would allow them to make educated decisions that best represented their family's interest.

SB 1404 would eliminate inefficiencies in the screening process and prevent loss of data by requiring the Department of State Health Services to create an electronic method of consent for newborn screening and information sharing. Paper consent forms and a lack of tailored messaging leave hospitals at risk of missing documentation, lead to delays in processing, and can lead parents to decline screenings due to misunderstanding the value or purpose of doing so. Given the critical nature of newborn screening results, verifiable and timely data are essential, and this bill would create a more efficient process for birthing centers and hospitals to capture those data.

OPPONENTS SAY:

SB 1404 would use resources that could be better appropriated to other state budget priorities.

NOTES:

According to estimates from the Legislative Budget Board, SB 1404 would have a negative impact of $3.8 million in general revenue related funds through fiscal 2020-21.

SUBJECT: Establishing requirements for B-On-time student loan account funds

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 20 ayes — Zerwas, Longoria, C. Bell, Buckley, Capriglione, Cortez, S. Davis, Hefner, Howard, Jarvis Johnson, Miller, Minjarez, Muñoz, Rose, Sheffield, Smith, Stucky, J. Turner, VanDeaver, Wu

2 nays — Schaefer, Toth

5 absent — G. Bonnen, M. González, Sherman, Walle, Wilson

SENATE VOTE: On final passage, April 30 — 30-1 (Hancock)

WITNESSES: No public hearing

BACKGROUND: Education Code sec. 56.0092 establishes the Texas B-On-time student loan account as an account in the general revenue fund. The account will be abolished by September 1, 2020, and any remaining money in the account may be appropriated only to eligible institutions as specified in statute.

Interested parties have called for the state to ensure that an institution of higher education that receives an appropriation of money following the abolition of the B-On-time student loan account uses the money for a purpose consistent with the overall goal of the state's higher education strategic plan.

DIGEST: SB 1504 would postpone the date on which the Texas B-On-time student loan account was abolished to September 1, 2021. Institutions that received an appropriation of money following the account's abolition could use the money only to support efforts to increase the number of at-risk students who graduated from the institution or the rate at which such students graduated from the institution.

The bill would define "at-risk student" to mean an undergraduate student of an eligible institution who had previously received a grant under the

federal Pell Grant program or met the Expected Family Contribution criterion for a grant under that program. It also would refer to a student whose total score on the SAT or ACT was less than the national mean, excluding the essay test.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Allowing certain municipalities to keep registries of vacant buildings

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 6 ayes — Button, J. González, Goodwin, Middleton, Morales, Patterson

2 nays — Shaheen, Swanson

1 absent — E. Johnson

SENATE VOTE: On final passage, April 9 — 28-3 (Creighton, Hancock, Hughes)

WITNESSES: For — Catherine Gorman, City of Galveston; (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Bill Kelly, City of Houston Mayor's Office)

Against — None

BACKGROUND: Local Government Code sec. 214.233 allows a municipality located in a county with a population of 2 million or more to adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

Interested parties have noted that allowing cities in smaller counties to keep such registries could help cities keep in touch with property owners and coordinate maintenance and upkeep of vacant buildings.

DIGEST: CSSB 1572 would allow a municipality located in a county that had a population of between 285,000 and 300,000 and that bordered the Gulf of Mexico (Galveston County) to adopt an ordinance that would allow but not require owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

A municipality that adopted such an ordinance could not place a lien on a property solely because it was registered as a vacant building.

CSSB 1572 could not be construed to grant a municipality any authority

other than the authority to adopt an ordinance described in the bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Authorizing charter schools to employ certain security officers

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Bernal, Allison, Ashby, K. Bell, M. González, K. King, Meyer, Talarico, VanDeaver

1 nay — Allen

2 absent — Dutton, Sanford

SENATE VOTE: On final passage, April 11 — 31-0, On Local and Uncontested Calendar

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Eric Marin, Texas Education Agency)

BACKGROUND: Education Code sec. 37.081 authorizes the board of trustees of a school district to employ security personnel and to commission peace officers. Commissioned peace officers are authorized to carry a weapon and hold the same powers, privileges, and immunities of peace officers. School district peace officers are required to perform law enforcement duties for the school district as determined by the board of trustees. Their duties include protecting the safety and welfare of any person in the jurisdiction of the peace officer and the property of the school district.

Some have suggested that open-enrollment charter schools be given similar authority.

DIGEST: SB 372 would grant the governing body of an open-enrollment charter school the power to employ security personnel and commission peace officers in the same manner as a board of trustees of a school district. The governing body also could enter into a memorandum of understanding with a local law enforcement agency to assign a school resource officer to

the school.

The bill would establish that a reference in law to a peace officer would include a peace officer commissioned by an open-enrollment charter school and that a charter school peace officer would have the same powers, duties, and immunities as a peace officer commissioned by a public school district.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Amending courts' handling of fines and costs for defendants unable to pay

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Collier, Zedler, J. González, Hunter, P. King, Moody, Murr

0 nays

2 absent — K. Bell, Pacheco

SENATE VOTE: On final passage, May 10 — 30-1 (Schwertner)

WITNESSES: No public hearing.

DIGEST: SB 1637 would revise several provisions dealing with procedures that courts, including justice and municipal courts, use to assess fines and costs for criminal defendants who are indigent or unable to pay the amounts. The bill would require that when a court was determining a defendant's ability to pay, it would have to consider only the defendant's present ability to pay.

The bill generally would take effect September 1, 2019.

Reconsideration of fines or costs. SB 1637 would require courts to hold a hearing if a defendant notified the court that the defendant had difficulty paying court fines and costs. The hearing would be held to determine whether that portion of the judgment imposed an undue hardship on the defendant.

Defendants could notify the court by various methods, including:

- voluntarily appearing and informing the court;
- filing a motion with the court;
- mailing a letter to the court; or
- any other method established by the court.

If the court determined at the hearing that the fine and costs imposed an

undue hardship on the defendant, the court would have to consider whether the fine and costs should be satisfied through an alternative method, including by waiving them or through a payment plan or community service.

Courts could decline to hold a hearing if they:

- previously held a hearing and could make a determination without another one that the judgment did not impose an undue hardship on the defendant; or
- could determine without holding a hearing that the judgment imposed an undue hardship on the defendant and that the fines and costs should be satisfied through an alternative method.

Capias pro fine. The bill would revise current provisions that prohibit a court from issuing a capias pro fine to arrest a defendant for failure to satisfy a judgment unless a hearing had been held and the defendant failed to appear or based on evidence from the hearing, the court had determined that the capias pro fine should be issued.

Instead, a hearing that would have to be held before a capias could be issued and would have to determine whether the judgment imposed an undue hardship on the defendant, rather than on the defendant's ability to pay. The capias could be issued only if the defendant failed to appear at the hearing or to comply with an alternative payment method previously established.

If a court determined at the hearing that the judgment imposed an undue hardship on the defendant, the court would have to determine whether the fine and costs should be satisfied through an alternative method. If the court determined that the judgment did not impose an undue hardship on the defendant, the court would have to order the defendant to comply with the judgment within 30 days of the determination.

The bill would modify the current provisions that a capias must be recalled. Under the bill, a capias would have to be recalled if, before the capias pro fine was executed, a defendant gave notice to a court that it was difficult to pay fines and costs and a hearing was set or if the defendant

voluntarily appeared and made a good faith effort to resolve the capias.

Waiver of payment of fines and costs. SB 1637 would establish what types of information courts could consider as an undue hardship when determining whether to waive fines and costs for certain indigent defendants and children.

The bill would authorize courts to reconsider the waiving of fines or costs for defendants on community supervision. A court could order the defendant to pay all or part of the waived amount of the fine or costs only if the court determined that the defendant had sufficient resources or income to pay.

SB 1637 would authorize justice and municipal courts to allow defendants to appear before them by telephone or videoconference for certain hearings considering fines and costs if it would impose an undue hardship to appear in person for a hearing.

Other provisions. The bill would amend Transportation Code provisions allowing officials under certain circumstances to refuse to register a vehicle due to fines or fees related to traffic violations that were owed to cities. The bill would extend to cities provisions similar to those that apply to counties that make information about past due fines expire two years after the information was provided to the county or the Texas Department of Motor Vehicles. The information could not be used after that date to deny a vehicle registration. The bill would add a waiver as a way to resolve the charges, and justice and municipal court judges would be authorized to waive certain administrative fees that may be imposed by the cities in these cases.

The bill would repeal provisions dealing with court procedures to handle court costs and fines that were enacted by the 85th Legislature in HB 351 by Canales, et al. and are similar to provisions also enacted by the 85th Legislature in SB 1913 by Zaffirini.

NOTES:

According to the Legislative Budget Board, the bill would have a negative, but indeterminate, fiscal impact because of anticipated decreases in revenue for an unknown number of defendants being unable to pay

court costs or fees.

SUBJECT: Adjusting support obligations of certain incarcerated individuals

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 7 ayes — Dutton, Murr, Bowers, Calanni, Dean, Lopez, Talarico

0 nays

2 absent — Cyrier, Shine

SENATE VOTE: On final passage, April 10 — 30-0

WITNESSES: *On House companion bill, HB 2265:*
For — Joshua Jaros, Montgomery County United for Shared Parenting; (*Registered, but did not testify:* Aimee Bertrand, Harris County Domestic Relations Office; Steve Bresnen, Texas Family Law Foundation)

Against — *(Registered, but did not testify:* Jeffrey Morgan)

On — *(Registered, but did not testify:* Joel Rogers, Office of the Attorney General-Child Support Division)

BACKGROUND: Family Code ch. 231 governs the state's Title IV-D program, which manages the child support program. The Office of the Attorney General is the state's Title IV-D agency.

Sec. 231.103 authorizes the Title IV-D agency to charge a reasonable application fee and a $25 annual service fee, and, to the extent permitted by federal law, recover costs for the services provided in Title IV-D cases. Application fees cannot exceed certain maximum amounts established by federal law.

Sec. 233.024 requires that courts, on the filing of agreed child support review orders signed by all parties, together with waivers of service, sign these orders within three days of their filing.

Some have noted that the laws surrounding the duties of the Office of the

Attorney General to enforce child support need to be updated to align more closely with newly enacted federal laws.

DIGEST:

SB 1675 would require the state's Title IV-D agency, upon verifying that a judgment or order had been rendered for the confinement of a child support obligor in a local, state, or federal jail or prison for at least 180 consecutive days, to review and administratively adjust the obligor's child support, medical support, and dental support orders to amounts based on the obligor's net resources during incarceration.

This requirement would not apply to obligors confined because of their failure to comply with child support orders or for offenses constituting family violence against obligees or children covered by the child support order.

If the agency administratively adjusted a support obligation, it would have to provide notice of the adjustment to the parties to the support order and file a copy of the notice with the court of continuing, exclusive jurisdiction.

This notice would be required to state the amount and effective date of the adjustment and the style and cause number of the case in which the support order was rendered.

The agency could seek modification of support orders in lieu of adjusting the support obligation. Additionally, adjustments of support obligations would not affect support obligations due before the effective date of the adjustment. The agency also could adopt rules to implement these requirements.

Adjustment reviews. Parties to support orders could contest administrative adjustments within 30 days of receiving notice of the adjustments. On request by these parties, the Title IV-D agency would have to:

- review the adjustment and determine whether obligors were confined because of their failure to comply with child support orders or for certain family violence offenses and whether the

adjustment accurately reflected the obligor's net resources during incarceration; and

- provide an opportunity for review with the parties in person or by telephone, as appropriate.

After conducting a review, the agency would be required to affirm its adjustment by issuing a notice of determination to the parties or withdraw its adjustment by filing a notice with the court of continuing, exclusive jurisdiction and issuing a notice of determination to the parties.

Parties could file a motion with the court of continuing, exclusive jurisdiction to contest the agency's affirmation of its adjustment within 30 days of receiving notice from the agency. The administrative adjustment would remain in effect until the agency filed a notice with the court withdrawing its adjustment or the court rendered an order regarding the adjustment.

If the agency affirmed its adjustment, and no parties requested a hearing with the court of continuing, exclusive jurisdiction within 30 days, the agency would have to file an administrative adjustment order with the court and attach a copy of its determination to affirm the adjustment. The order also would have to state the amount of the adjusted obligation and the effective date of the adjustment.

If no parties contested the adjustment or requested a review within the required timeframe, the agency would have to file an administrative adjustment order with the court of continuing, exclusive jurisdiction that stated this, along with the obligor's adjusted support obligation and the effective date of the adjustment.

Courts would be required to sign these orders from the agency within seven days of the orders being filed. After seven days, orders would be considered confirmed by the courts by operation of law, regardless of whether courts had signed the orders.

Modification of support obligations after incarceration. SB 1675 would require the Title IV-D agency, upon the release of an obligor whose support obligations were administratively adjusted during incarceration, to

review the obligor's support order to determine if modification was necessary.

Other provisions. SB 1675 would remove the $25 cap on annual service fees that the Title IV-D agency could charge and establish that these fees could not exceed the maximum amounts established by federal law.

Additionally, the bill would require court clerks to deliver copies of petitions for confirmation of nonagreed review orders and copies of the order to each party entitled to service by personal service or, if court-ordered, a method of substituted service. SB 1675 would require courts, upon the filing of agreed child support review orders signed by all parties, together with waivers of service, to sign the orders within seven days of filing.

Scope. SB 1675 would apply to child support orders rendered before, on, or after the effective date of the bill. Additionally, adjustments under the bill would constitute material and substantial changes of circumstances sufficient to warrant modifications of court orders or portions of decrees that provided for the support of children rendered before the effective date.

The bill would take effect September 1, 2019, and would apply only to petitions for confirmation of nonagreed orders and agreed child support review orders filed on or after that date.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated positive impact of $13 million to general revenue related funds through fiscal 2020-21.